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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,789	11/12/2003	Gregory Bret Turetzky	ST00014C2(107-US-C2)	7800
34408	7590	03/03/2006	EXAMINER	
THE ECLIPSE GROUP 10605 BALBOA BLVD., SUITE 300 GRANADA HILLS, CA 91344			ISSING, GREGORY C	
			ART UNIT	PAPER NUMBER
			3662	
DATE MAILED: 03/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,789	<b>Applicant(s)</b> TURETZKY ET AL.	
	<b>Examiner</b> Gregory C. Issing	<b>Art Unit</b> 3662	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim1-10 and 12-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,680,695. Although the conflicting claims are not identical, they are not patentably distinct from each other because the communication system set forth in the preamble by definition includes transmission and reception of signals and the dependent claims further define the communication system as a cellular telephone. Moreover, since the system receives GPS signals and processes the GPS signals, the communication system obviously, if not inherently, meets the scope of a GPS receiver.

3. Applicants argue that the double patenting rejection is overcome since the patent uses a communication system including a transceiver and GPS receiver, allegedly missing from the instant application. This argument fails to address the obviousness aspect as set forth in the previous Office Action. Moreover, further dependent claims in the instant application make clear that in fact the "communication system" defined by the preamble includes a cellular telephone. Thus, the applicants' argument is not persuasive.

4. Claims 1-10 and 12-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,466,161. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to a skilled artisan in the art of navigation receivers, i.e. GPS receivers, to provide position

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information to the user. Moreover, since the system receives GPS signals and processes the GPS signals, the system obviously, if not inherently, meets the scope of comprising a GPS receiver.

5. Applicants argue that the double patenting rejection is overcome since the patent discloses a "location services system comprising a GPS receiver and means for informing a user of the position. Applicants do not address the obviousness aspect as set forth in the previous Office Action. The means for informing a user clearly encompasses the user of the GPS receiver, while most if not all GPS receivers provide the position results to someone, either the user or PSAP for E911. Thus, the applicants' argument is not persuasive.

6. Claims 1-10 and 12-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,707,423. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to a skilled artisan in the art of navigation receivers, i.e. GPS receivers, to provide position information to the user. Moreover, since the system receives GPS signals and processes the GPS signals, the system obviously, if not inherently, meets the scope of comprising a GPS receiver.

7. Applicants argue that the double patenting rejection is overcome since the patent discloses a "location services system comprising a GPS receiver and means for informing a user of the position. Applicants do not address the obviousness aspect as set forth in the previous Office Action. The means for informing a user clearly encompasses the user of the GPS receiver, while most if not all GPS receivers provide the position results to someone, either the user or PSAP for E911. Thus, the applicants' argument is not persuasive.

8. Claims 1-10 and 12-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/775,870. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to a skilled artisan in the art of navigation receivers, i.e. GPS receivers, to provide position information to the user. Moreover, since the system receives GPS signals and processes the GPS signals, the system obviously, if not inherently, meets the scope of comprising a GPS receiver.

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9. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Applicants argue that the double patenting rejection is overcome since the patent discloses a "location services system comprising a GPS receiver and means for informing a user of the position. Applicants do not address the obviousness aspect as set forth in the previous Office Action. The means for informing a user clearly encompasses the user of the GPS receiver, while most if not all GPS receivers provide the position results to someone, either the user or PSAP for E911. Thus, the applicants' argument is not persuasive.

11. Claims 1-10 and 12-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,529,829 in view of Oshizawa (5,987,381). All of the limitations of the instantly claimed system are included in US patent 6,529,829 with the exception of the preamble language and further dependent claims directed to a communication system. Oshizawa show the obviousness of an integrated system including GPS, dead reckoning and wireless communications. Thus, it would have been obvious to the skilled artisan to include wireless communication in the dead reckoning system of patent 6,529,829.

12. Applicants argue that the double patenting rejection is overcome since the patent includes a dead reckoning sensor which is not found in the instant application. Applicants do not address the obviousness aspect of the rejection as set forth in the previous Office. One of ordinary skill in the art at the time of the invention would know how to make and use the instantly claimed device given the patent since all of the elements in the instant application are a part of the patent. Additional elements in the patent do not preclude a skilled artisan from making or using the instant application's claimed subject matter. Oshizawa et al merely indicates that integration of communications devices with dead reckoning are known to the artisan and that there is nothing novel merely in the combination therewith. Thus, applicants' arguments are not persuasive.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

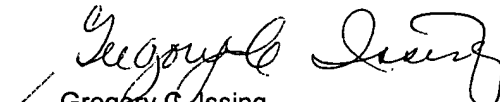
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (571)-272-6973. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gregory C. Issing  
Primary Examiner  
Art Unit 3662

gci